

AMENDMENTS TO THE DRAWINGS:

Please enter the enclosed replacement drawing Figures 1, 2, 3, and 4 into the record.

REMARKS

A petition to extend the time for response by one (1) month is enclosed herewith.

Replacement drawings have been submitted. The Abstract of The Disclosure has been replaced and the specification has been amended. Claims 22 and 25 have been amended. New dependent claims 27 and 28 ultimately depending from claim 14 have been added. Claims 14 - 28 are currently pending in the present application.

The Office Action indicates that the specification and the drawings, as well as claim 22, are objected to. Also, in the Office Action, claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Furthermore, in the Office Action, claims 14 – 18, 23 – 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolze et al et al US Patent No. 4,697,608. Additionally, in the Office Action, claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolze et al US Patent No, 4,697,608, and in view of Charboneau et al US Patent No. 3,849,031. Furthermore, in the Office Action, claims 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolze et al US Patent No, 4,697,608, and in view of Charboneau et al US Patent No. 3,849,031 and further in view of Tirelli US Patent No. 3,945,399. Moreover, in the Office Action, claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolze et al US Patent No, 4,697,608 in view of Tirelli US Patent No. 3,899,003.

With respect to the objections to the specification and the drawings, it is respectfully submitted that these objections have now been overcome. Replacement Sheets for Figures 1, 2, 3, and 4 have been submitted herewith and

all of the reference signs denominated in the specification are now shown in the drawings.

With respect to the objection to claim 22, it is respectfully submitted that these objection has now been overcome by the amendment of claim 22.

With respect to the rejection of claim 25 under 35 U.S.C. 112, second paragraph, as being indefinite, it is respectfully submitted that this rejection has now been overcome by the amendment of claim 25.

Turning now to the rejections of claims 14 - 26 under 35 U.S.C. 102(b) as being anticipated by Kolze et al et al US Patent No. 4,697,608 or as being obvious in view of Kolze et al et al US Patent No. 4,697,608 in view of Charboneau et al US Patent No. 3,849,031 or Tirelli US Patent No. 3,945, respectively, a brief discussion of the rejected claims is presented herein prior to discussing the rejection advanced over the art of record.

Independent claim 14 of the present application recites a gas tap including a gas path includes an electromagnetic safety valve for closing the gas path. The safety valve includes an armature housing and having a mobile magnetic anchor in the housing and a valve seat. The mobile magnetic anchor includes a valve closing element which presses on the valve seat to close the gas path and an electromagnetic coil for activating the mobile magnetic anchor and the valve closing element to close the gas path when voltage is applied to the electromagnetic coil. Also, the electromagnetic coil is arranged as a separate component outside of the armature housing on a magnetic insert.

Kolze et al US Patent No, 4,697,608 discloses a water valve for a refrigerator valve including a valve assembly 10 having a plastic valve body 12 with an inlet 14 and an outlet fitting 16. An encapsulated electrical coil 18 is mounted on

the body 12. The upper portion of an armature guide 58 has a hollow tubular configuration with an armature member 72 formed of ferro-magnetic material slidably received therein in closely fitting arrangement. A coil spring 74 is disposed within tubular portion 58 and biases the armature member 72 in a downward direction toward a valve seat 70.

It is submitted that the principal reference Kolze et al et al US Patent No. 4,697,608 does not disclose a gas tap for a cooktop but, instead, discloses a water valve for a refrigerator. Additionally, the water valve disclosed in Kolze et al et al US Patent No. 4,697,608 has a plastic housing and does not have a tap axle and a cook plug for regulating gas flow. Furthermore, the magnet unit of the water valve disclosed in Kolze et al et al US Patent No. 4,697,608 is not part of a safety device. Thus, it is submitted that one of skill in the art considering a solution for improving the safe operation of a gas tap for a cooktop would not turn to Kolze et al et al US Patent No. 4,697,608.

It is also submitted that the prior art provides no hint or motivation to one of skill in the art to combine the respective arrangements of these references, let alone to selectively combine the respective arrangements of these references in the manner asserted in the Office Action. It is well settled that almost all claimed inventions are but novel combinations of old features. The courts have held in this context, however, that when "it is necessary to select elements of various teachings in order to form the claimed invention, we ascertain whether there is any suggestion or motivation in the prior art to make the selection made by the applicant". Interconnect Planning Corp. v. Feil, 227 USPQ 543, 551 (Fed. Cir. 1985) (emphasis added). "Obviousness can not be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination". In re Bond, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990). "Under Section 103 teachings of references can be combined only if there is some suggestion or incentive to do so." ACS Hospital

Systems, Inc. v. Montefiore Hospital et al., 221 USPQ 929, 933, 732 F.2d 1572 (Fed. Cir. 1984) (emphasis original). “Although a reference need not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form, must nevertheless be ‘clear and particular.’” Winner Int’l Royalty Corp. v. Wang, 53 USPQ2d 1580, 1587, 202 F.3d 1340 (Fed. Cir. 2000) (emphasis added; citations omitted); Brown & Williamson Tobacco Corp. v. Philip Morris, Inc., 56 USPQ2d 1456, 1459 (Fed. Cir. Oct. 17, 2000).

In establishing a *prima facie* case of obviousness, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Int. 1985). To this end, the requisite motivation must stem from some teaching, suggestion, or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from the applicants’ disclosure. See, for example, Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1439 (Fed. Cir. 1988), *cert. den.*, 488 U.S. 825 (1988).

Applicants respectfully believe that any teaching, suggestion, or incentive possibly derived from the prior art of record is only present with hindsight judgment in view of the present application. “It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant’s structure as a template and selecting elements from references to fill the gaps. . . . The references themselves must provide some teaching whereby the applicant’s combination would have been obvious.” In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991) (emphasis added).

A critical step in analyzing the patentability of claims pursuant to 35 U.S.C. § 103 is casting the mind back to the time of invention, to consider the thinking of

one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. See In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614,1617 (Fed. Cir. 1999). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher." Id. (quoting W.L. Gore & Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Most if not all inventions arise from a combination of old elements. See In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453,1457 (Fed. Cir. 1998). Thus, every element of a claimed invention may often be found in the prior art. See id. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. See id. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the Applicants. See In re Dance, 160 F.3d 1339, 1343, 48 USPQ2d 163.5, 1637 (Fed. Cir. 1998); In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125,1127 (Fed. Cir. 1984).

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved. See In re Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. See WMS Gaming, Inc. v. International Game Tech., 184 F.3d 1339, 1355, 51 USPQ2d 1385, 1397 (Fed. Cir. 1999). The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA

1981) (and cases cited therein). Whether the examiner relies on an express or an implicit showing, the examiner must provide particular findings related thereto. See In re Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. Broad conclusory statements standing alone are not "evidence." Id. When an Examiner relies on general knowledge to negate patentability, that knowledge must be articulated and placed on the record. See In re Lee, 277 F.3d 1338, 1342-45, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002).

In view of the different arrangements of the cited prior art, it can clearly be appreciated that none of these cited references provides any motivation to one of ordinary skill in the art to modify the respective arrangements of any of these references. Moreover, even if these cited references provided some motivation to one of ordinary skill in the art to modify the arrangements of one of these references, which Applicants submit there is not, it is clear that none of these references provides any guidance as to how such a modification could be effected.

Prior art must be considered in its entirety, including disclosures that teach away from the claimed invention. The Examiner cannot conveniently select some portions of the secondary reference to fill the gaps in the primary reference while disregarding other portions of the references that teach away from the proposed combination. Most, if not all, inventions arise from a combination of old elements. See In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457 (Fed. Cir. 1998). Thus, every element of a claimed invention may often be found in the prior art. See id. However, mere identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. See id. "It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps." In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991).

Thus, Applicants submit that the gas tap recited in independent claim 14, and claims 15 – 25, 27, and 28 depending ultimately therefrom, and the gas tap recited in independent claim 26, is neither taught nor disclosed by the prior art of record.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of claims 14 - 28 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,



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